

August 21, 2015

Mr. Gerard Poliquin
Secretary to the NCUA Board
1775 Duke Street
Alexandria, VA 22314

Re: Comments on Proposed Rule: PCA – Risk-Based Capital

AUG24'15 AM 8:37 BOARD

Dear Mr. Poliquin:

On behalf of the Bethpage Federal Credit Union Board of Directors and members, I would like to take this opportunity to provide comment on NCUA's proposed rule on Member Business Loans (MBL); Commercial Lending, amending Parts 701, 723, and 741 of the Agency's regulation on lending (Federal Register 37898, July 1, 2015).

Bethpage FCU commends NCUA for its careful and considered approach to revisions to current standards, and generally supports the proposed changes.

There are several aspects of the proposed regulation that are particularly positive in Bethpage's view, specifically, the elimination of the current waiver process, which we have long considered cumbersome and overly complex, is a welcome change that will enable credit unions to approach lending and the management of their portfolio with additional clarity. The granting of more latitude in personal guarantees represents a more sensible approach to NCUA supervision; the replacement of the mandatory guarantee with a requirement that the credit union document mitigating factors that make a guarantee unnecessary is a prudent step that will improve the lending process.

There are other elements of the rule that we believe warrant modification or clarification. Specifically:

Removal of specific loan-to-value (LTV) limits, as well as those on security and equity

The proposed definition clarifies that the denominator of the LTV ratio is the market value for the collateral held longer than 12 months, and the lesser of the purchase price and the market value for collateral held 12 months or less. The proposal appears to be driven by typical guidelines imposed in residential lending and less to do with the industry standards that are utilized in commercial lending, especially involving commercial real estate.

The new definition should allow the credit union sufficient flexibility to use market value of the collateral in situations where it is warranted, regardless of purchase price or time since purchase. Many commercial real estate borrowers, besides contributing equity towards the purchase of the collateral, bring other value to the transaction, for example a well-seasoned property owner will typically identify purchase opportunities that have upside potential due to vacancy or change in use. They typically would arrange for tenants to take occupancy of the property which was purchased vacant thus increasing the market value or potentially put additional equity into the collateral after purchase, thus increasing the market value above the original purchase price. A lender must be able to factor these into their credit decision.

Definition of "Qualifying Credit Union"

The exemption contained in the proposed rule would apply to credit unions not regularly originating and selling or participating out commercial loans that meet two additional criteria: 1) having assets less than \$250 million, and 2) making total commercial loans less than 15% of net worth. The stated intent of the exemption contained in the proposed rule is to allow credit unions that occasionally grant loans, and that meet the proposed commercial loan definition, to be relieved of the burden of having to develop a full commercial policy. Bethpage FCU believes this exemption should be triggered by the percentage of net worth that the credit union holds on its balance sheet, not by their asset size. Any credit union with 15% or less of their net worth in commercial loans would be exposed to nominal risk, which in turn exposes the insurance fund to nominal risk.

Definition of Commercial Loan

This language in the proposed rule exempts a number of loans from the definition of commercial loans. Item (7) exempts any loan(s) to a borrower or an associated borrower, the aggregate balance of which is equal to less than \$50,000, while the new language corrects a discrepancy in the existing regulation (or at least in the NCUA examiner interpretation of the regulation) to exclude those loans that aggregate to \$50,000. A more appropriate limit would be relative to a credit unions net worth in order to align with the risk to the insurance fund. The \$50,000 limit appears arbitrary and not related to risk involved.

The definition of a commercial loan excludes those loans secured by collateral, which is a 1-4 family residential property, regardless of whether it is a primary residence. While this is a positive step, in that it recognizes that risk inherent in these types of loans is not the same as loans which are defined as commercial loans, Bethpage believes the revisions should go further.

For example, the final rule should exclude these loans from a credit unions net member business loan balance. It is standard practice that loans secured by non-owner occupied or second homes are underwritten to secondary market guidelines, and thus are afforded product types that are typically offered to loans

secured by primary residence. While prudent practices may require lower loan-to-value ratios or other credit enhancements (such as limitations on the number of non-owner property loans), decisions regarding these loans should be left to the credit union, based upon risk appetite and experience, rather than dictated by regulation.

Commercial Loan Policy

Proposed language in the underwriting standards resembles prescriptive requirements more than NCUA's stated principles-based intent. The presence of standards and required due diligence should in turn permit credit union flexibility and discretion. Much of the text in this appears to be procedural, rather than policy, and does not allow for flexibility related to a specific individual transaction. For example "quality of the financial information" addresses the types of financial statements. While these types of financial statements may be more applicable to a true commercial and industrial loan, they would not be applicable to an investment property commercial loan, regardless of the number of investment properties owned by the borrower. The same comment is applicable for inclusion of projections. Flexibility is needed to allow each credit union to establish procedures and make decisions that comport with its appetite for risk, and will allow the credit union to appropriately serve its members and market.

Aggregate member business loan limit; exclusions and exceptions

Clarification is needed in the Statutory Limits section and required calculation. While the 1.75% times the actual net worth calculation is clearly stated, the 1.75 times the minimum net worth required portion is ambiguous. Is "minimum net worth" derived by calculating the dollar amount necessary to meet the minimum net worth % under section 1790d(c)(1)(A)?

Changes contemplated by the rule are accompanied by new responsibilities for credit union boards and management. We note NCUA estimates that a credit union will need to spend 16 hours updating its commercial lending policies, and 160 hours devising and adopting a credit risk rating system. These are important transitional activities, and we encourage NCUA to make certain that its examiners take a flexible and patient approach with credit unions as they work toward completion.

Finally, Bethpage FCU notes that the rule carries a \$1.9 million cost for examiner training. While we view this amount as reasonable and consistent with the need for development of thorough and rigorous safety and soundness oversight of these particular types of specialized lending activities, Bethpage also counsels caution and restraint in keeping the expenditure at or even below that figure. These funds should be well-targeted and limited to the important task at hand.

As an overall observation, Chairman Matz's comments about the rewritten rule are useful when evaluating the proposed rule. We agree with the Chairman's statement where she states, "The proposed rule will provide credit unions with greater flexibility and more autonomy. NCUA is shifting the focus from a prescriptive approach to a

principles based approach that emphasizes sound risk management practices... Credit unions know their members better than we do". NCUA should empower credit unions to practice and apply sound underwriting to all of its lending activities, particularly those as complex as MBL and commercial loans. This is a central responsibility of the credit union, not a federal regulator.

Thank you for the opportunity to provide input as you continue your work to improve both the ability of credit unions to serve the marketplace, and NCUA's ability to oversee these activities in your role as prudential regulator and insurer.

Sincerely,

A handwritten signature in black ink, appearing to read "Wayne N. Grossé", with a stylized flourish at the end.

Wayne N. Grossé
President & Chief Executive Officer